

YOUR RIGHT TO DIRECT YOUR FUTURE HEALTH NEEDS

**Who Will Make
Your Medical Decisions
When You Can't?**

**Wisconsin Department of Health and Family Services
Division of Disability and Elder Services
Bureau of Quality Assurance**

PDE-2025 (Rev. 10-03)

You have the right to make decisions about your health care. This includes the right to accept or refuse medical or surgical treatment. You also have the right to plan and direct the types of health care you may receive in the event you become unable to express your wishes. You can do this by making an “advance directive.”

WHAT IS AN ADVANCE DIRECTIVE?

An advance directive describes, in writing, your choices about the treatments you want or do not want or about how health care decisions should be made for you if you become incapacitated and cannot express your wishes.

An advance directive expresses **your** personal wishes, beliefs and values. When you make an advance directive, you should consider issues like dying, living as long as possible, being kept alive on machines, being independent, and quality of life. Addressing these issues may be difficult but it is necessary if you want others to follow your wishes.

WHO CAN MAKE AN ADVANCE DIRECTIVE?

In Wisconsin, if you are 18 years of age or older and of “sound mind,” you can make an advance directive.

WHY SHOULD I MAKE AN ADVANCE DIRECTIVE?

An advance directive speaks for you when you are unable to speak for yourself.

HOW DO I MAKE AN ADVANCE DIRECTIVE?

There are three ways to make a formal advance directive in Wisconsin. You can complete either a *living will* or a *power of attorney for health care* document. These forms may be available from your health care provider or can be obtained from the Division of Public Health via <http://dhfs.wisconsin.gov/forms/AdvDirectives/index.htm>. You do not need an attorney to complete these forms. However, two persons must witness your signature. The forms describe who may or may not be a witness.

A third way to express your wishes is to have a legal document drafted by your attorney and appropriately witnessed.

WHAT IS A LIVING WILL?

A living will informs your physician regarding your preferences or wishes about life-sustaining measures to be used when you are near death or in a persistent vegetative state.

The life-sustaining measures mentioned in the living will include treatments or machines that keep your heart, lungs, or kidneys functioning when they are unable to do so on their own.

A living will goes into effect only when two physicians, one of whom is your attending physician, agree in writing that you are either near death or are in a persistent vegetative state that cannot be reversed and are unable to understand or express your health care choices.

WHAT IS A POWER OF ATTORNEY FOR HEALTH CARE?

The power of attorney for health care is a document in which you appoint another person (a “health care agent”) to make health care decisions for you in the event that you are not capable of making them yourself. A health care agent can make a wide range of health care decisions for you, such as whether or not you should have an operation, receive certain medications, or be placed on a life support system. In some areas of health care your health care agent is not allowed to make decisions for you unless you give him or her specific authority in those areas when you complete the form. These areas are admission to long term care facilities, limitations on mental health treatment, health care decisions for pregnant women, pregnancy care and provision of a feeding tube.

Your health care agent will make decisions for you based upon your directions, his or her knowledge about you and your wishes, and his or her opinion about what is best for you.

It is important to choose someone who knows you well and to discuss your treatment preferences with him or her in advance.

You can also include specific instructions about the type of treatments you want or do not want, e.g., surgery, when you complete the form.

A power of attorney for health care goes into effect only when two physicians, or a physician and a psychologist, agree in writing that you can no longer understand your treatment options or express your health care choices to others.

WHAT IS THE DIFFERENCE BETWEEN A LIVING WILL AND A POWER OF ATTORNEY FOR HEALTH CARE?

A living will goes into effect only when your death is very near or when you are in a persistent vegetative state and you have lost the ability to make medical decisions. It deals only with the use or non-use of life sustaining measures.

A power of attorney for health care goes into effect when you are incapacitated and can no longer make health care decisions but you do not have to be close to death or in a vegetative state. The power of attorney for health care also allows another person to speak for you and make health care decisions for you that are not limited to life-sustaining measures. The type of decisions this person can make depends upon how you complete the form.

SHOULD I HAVE BOTH A LIVING WILL AND A POWER OF ATTORNEY FOR HEALTH CARE?

It is not necessary to have both a living will and a power of attorney for health care. If you do have both documents, you should make sure they do not conflict.

WHAT IF I CHANGE MY MIND?

You can cancel or replace a living will or a power of attorney for health care at any time by expressing this verbally or in writing to your physician or health care provider. The different ways you can do this are also explained in the letter that accompanies the forms you complete.

DOES MY HEALTH CARE PROVIDER HAVE TO

FOLLOW MY ADVANCE DIRECTIVES?

Some health care providers and physicians may have policies or beliefs that prohibit them from honoring certain wishes made in advance directives. It is important to discuss your wishes with them in advance to determine if they will honor your advance directives. If a physician or provider is unwilling to honor your wishes, the physician or provider must make a good faith effort to refer you to a physician or provider who will meet your needs.

WHAT HAPPENS IF I DON'T MAKE AN ADVANCE DIRECTIVE?

You will receive medical care if you do not make an advance directive. However, there is a greater chance you will not receive the types of care and treatments you want if you have not made an advance directive.

If you cannot speak for yourself and have not made an advance directive, a physician will generally look to your family, friends, or clergy for decisions about your care. If the physician or health care facility is unsure, or if your family is in disagreement about the decision, they may ask courts to appoint a person (a guardian) who will make decisions for you.

WHERE SHOULD I KEEP MY ADVANCE DIRECTIVE?

You should keep your advance directive in a safe place where you and others can easily find it. (Do not keep it in a bank safe deposit box.) You should make sure your family members and your attorney, if you have one, know you have made an advance directive and know where it is located. You should also ask your physician and your other health care providers to make your advance directive part of your permanent medical record.

I HAVE SOME QUESTIONS. WHO CAN ANSWER THEM OR GIVE ME ADDITIONAL HELP?

Your physician or other health care providers can help you understand your health needs and the options for treating these needs. They can answer questions about advance directives.

You can also contact your attorney or the following agencies, if you have questions about advance directives.

Wisconsin Division of Public Health
Living Will/Power of Attorney
P.O. Box 2659
Madison WI 53701-0309
(608) 266-1251

To request a living will or power of attorney for health care form, send a business size, self-addressed, stamped envelope to the address at the left.

<http://dhfs.wisconsin.gov/forms/AdvDirectives/index.htm>

Wisconsin Guardianship Support Center
2850 Dairy Dr., Suite 100
Madison WI 53718
608-224-0606
800-488-2596
guardian@cwag.org
www.cwag.org

For questions about Powers of Attorney for Health Care and Living Wills.

To request a copy of "Planning for Future Health Care Decision-Making Do-it-Yourself Packet," send \$2.00 with your name and address to the address on the left.

Wisconsin Board on Aging and Long Term Care
(Ombudsman Program)
1402 Pankratz St.
Madison WI 53704
(608) 266-8944
<http://longtermcare.state.wi.us/home/Ombudsman.htm>

DEPARTMENT OF HEALTH AND FAMILY SERVICES
Division of Disability and Elder Services
Bureau of Quality Assurance Offices and Addresses

Madison/Southern Regional Office

Bureau of Quality Assurance
2917 International Lane, Suite 210
MADISON WI 53704
Reg. Field Operations Director
(608) 243-2374
Office FAX No. (608) 243-2389

Eau Claire/Western Regional Office

Bureau of Quality Assurance
610 Gibson St., Suite 1
EAU CLAIRE WI 54701
Regional Field Operations Director
(715) 836-4753
Office FAX No. (715) 836-2535

Milwaukee/Southeastern Regional Office

Bureau of Quality Assurance
819 N. 6th Street, Room 609B
MILWAUKEE WI 53203
Reg. Field Operations Director
(414) 227-4908
Office FAX No. (414) 227-4139

Rhineland/Northern Regional Office

Bureau of Quality Assurance
1853 N. Stevens, Suite B
RHINELANDER WI 54501
Regional Field Operations Director
(715) 365-2802
Office FAX No. (715) 365-2815

Green Bay/Northeastern Regional Office

Bureau of Quality Assurance
200 N. Jefferson Street, Room 211
GREEN BAY WI 54301
Reg. Field Operations Director
(920) 448-5249
Office FAX No. (414) 448-5254

Provider Regulation and Quality Improvement Section

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